

Singapore Transfer Pricing Guide 2024

wts global

Singapore

1. Legal Basis

Is there a legal requirement to prepare TP documentation?

Yes, Section 34F legislates the mandatory requirement for contemporaneous and adequate TP documentation, and penalties for non-compliance from YA 2019 onward.

Since when does a TP documentation requirement exist in your country?

2006.

Adoption of the OECD or UN legislation in your country?

OECD.

Is your country a member of the OECD, Inclusive Framework, or other OECD groups (e.g. BEPS)?

Yes, Singapore is a member of the Inclusive Framework.

Are TP policies of multinational enterprises in principle accepted by the tax authorities, if they are in line with the OECD TP Guidelines?

Yes. If Taxpayers have prepared similar TP documentation (e.g. OECD MF and LF) for the purpose of complying with the requirements of other tax jurisdictions, such documentation, if relevant to the business operations in Singapore, may form part of the TP documentation for Singapore tax purposes.

Which TP methods may be applied?

There are no provisions for TP methods in the domestic law. However, the Singapore TP Guidelines (Section 5) sets out the TP methods

that Taxpayers can use to price their transactions with related parties.

The Guidelines provide for all methods described in the OECD TP Guidelines (Comparable Uncontrolled Price ("**CUP**"); Resale Price method ("**RPM**"); Cost Plus method ("**CPM**"), Profit Split ("**PS**"); and Transaction Net Margin Method ("**TNMM**").

Is there a stated preference for any particular TP methods?

The most appropriate method should be used.

Have the documentation requirements of OECD BEPS Action 13 already been implemented (i.e. the LF, MF and CbCR concepts)?

IRAS has not adopted the application of the BEPS LF concepts as separate documents.

The Income Tax (TPD) Rules 2018 stipulate the information Taxpayers must provide in their TP documentation. The information to be provided by the Taxpayers at entity level and group level is largely similar to the OECD LF and MF respectively.

Nonetheless, the information requirements for Singapore TP documentation are largely aligned to the OECD approaches though the details requested are for the applicable Singapore entity. The concept of CbCR has been implemented.

Reference to documentation and statements of local-government or tax authorities regarding OECD BEPS implementation status

Para 6.25 of the IRAS e-tax Guide on TP Guidelines, first released on 23 February 2006 and updated (6th edition published on 10 August 2021).

Singapore

Is there any statute of limitation period?

4 years from the Year of Assessment.

Reference to relevant articles of law, legislative regulation or applicable administrative guidance that are in place for TP documentation in general.

Section 34F of the Singapore Income Tax Act ("ITA") legislates the mandatory requirement for contemporaneous and adequate TP documentation, and penalties for non-compliance from YA 2019 onward.

Chapter 6 (Paras 6.1 to 6.44) of the Singapore TP Guidelines contains detailed guidance on TP documentation.

2. Master File (MF)

What is the (consolidated revenue) threshold requirement for the obligation to prepare a MF?

Unless exemption from TP Documentation for specified transactions applies, Taxpayers must prepare TP Documentation for their related party transactions in a basis period, when either: (a): The gross revenue from their trade or business for the basis period is more than SGD 10 million; or (b): They were required to prepare TP Documentation under Section 34F of the Singapore ITA for the basis period immediately prior to the current basis period.

Once TP Documentation is required, it applies for:

- › Purchases of goods from related parties (≥SGD 15 million (EUR 9,474,022));
- › Sale of goods to related parties (≥SGD 15 million);
- › Loans owed to related parties (≥SGD 15 million);
- › Loans owed by related parties (≥SGD 15 million); or
- › All other categories of related party transactions (≥SGD 1 million (EUR 631,601), e.g. Service income, Service expense, Royalty income, Royalty expense, Rental income, Rental expense), Guarantee income, Guarantee expense).

The SGD1 million threshold is determining separately by aggregating each category of related party transaction.

Exemptions: IRAS has provided administrative concessions where TP Documentation need not be maintained:

- › Transactions with domestic related parties (excluding related party loans) where both parties are subject to the same CIT rates)
- › Domestic related party loans (where the lender is not in the business of borrowing and lending)
- › Routine low value added services where the 5% cost mark-up safe harbour is applied.
- › Related party loans where the indicative margin safe harbour is applied.
- › Related party transactions covered by an APA.

Euro Equivalent

EUR 6,316,010.

From which year does this obligation exist?

As from the year in which the threshold is met (so that the MF is prepared for the year in which the threshold was met or exceeded). Singapore TP Documentation requirements should be practically applicable to Taxpayers from FY2020/21 onwards.

When does the MF need to be available?

TP Documentation should be prepared on a contemporaneous basis. IRAS does not require Taxpayers to submit the TP Documentation when they file their tax returns. Taxpayers should keep their TP Documentation and submit it to IRAS within 30 days upon request.

When does it need to be submitted?

The MFs shall be submitted within 30 days based on the request by the tax authority.

Singapore

Does the MF have to be prepared in the relevant local language?

The TP Documentation needs to be prepared in English. Paragraph 6.40(c) of the 2021 Singapore TP Guidelines specifies that the IRAS may request translation of any TPD not written in English.

Is documentation in English permissible?

Yes.

What are the possible consequences of not having the MF available?

Penalties?

Yes, a penalty of up to SGD 10,000 (i.e. USD 7,600 approx.) applies to a Taxpayer who knowingly provides materially false or misleading TP Documentation to the comptroller.

Imprisonment?

Yes.

Shifting of the burden of proof?

No.

Other?

No.

To what extent do the local rules differ from the OECD standard regarding the OECD content requirements for the MF as shown in the BEPS implementation overview chart?

Consistent with OECD requirements, except:

- › **Description of Group lines of business:** Singapore TPG (description of all group lines of businesses, products and services, as relevant to Singapore Taxpayer); OECD: (description of group's 5 largest products/services by turnover and those products/services amounting to more than 5% of group turnover).
- › **Industry overview:** Singapore TPG: (Description of industry, market and

regulatory factors relevant to the group); OECD: (none).

Group intangibles/R&D arrangements:

- › **Other:** Singapore TPG (a listing of group intangibles and the related parties owing them); OECD (significant additional disclosures including description of the group strategy for IP development/ownership/ exploitation, R&D locations, key intercompany arrangements, TP policies and IP transfers during the year).
- › **Group financing arrangements:** Singapore TPG (description of financing arrangements between related parties); OECD (additional disclosures such as details of key third party financing arrangements, specific central financing function within the group etc.)
- › **Group financial position:** Singapore TPG (Group financials, as relevant to the Singapore's Taxpayer's line of businesses); OECD (Group's consolidated financial position).

3. Local File (LF)

What is the threshold requirement for the obligation to prepare a LF?

Same as above.

Euro Equivalent

Same as above.

From which year does this obligation exist?

As from the year in which the threshold is met (so that the LF is prepared for the year in which the threshold was met or exceeded). Singapore TP Documentation requirements should be practically applicable to Taxpayers from FY2018 onwards.

When does the LF need to be available?

TP Documentation should be prepared on a contemporaneous basis. IRAS does not require Taxpayers to submit the TP Documentation when they file their tax returns. Taxpayers should keep their TP Documentation and submit it to IRAS within 30 days upon request.

Singapore

When does the LF need to be submitted?

The LFs shall be submitted within 30 days upon request by the tax authorities.

Does the LF have to be prepared in the relevant local language?

The TP Documentation needs to be prepared in English. Paragraph 6.40(c) of the 2021 Singapore TPG specifies that the IRAS may request translation of any TP Documentation not written in English.

Or is documentation in English permissible?

Yes.

What are the possible consequences of not having the LF available?

Penalties?

Yes, a penalty of up to SGD 10,000 (i.e. USD 7,600 approx.) applies to a Taxpayer who knowingly provides materially false or misleading TP Documentation to the comptroller.

Imprisonment?

Yes.

Shifting of the burden of proof?

No.

Other?

Yes.

To what extent do local rules differ from the OECD standard regarding the OECD content requirements for the LF as shown in the 2017 OECD TP Guidelines?

Same as above.

4. Country-by-Country Reporting (CbCR)

What is the threshold requirement for the obligation to prepare Country-by-Country Reporting?

IRAS has published an e-tax guide on CbCR. Broadly, CbCR is required for an MNE group for financial years beginning on or after 1 January 2017 (but before 1 January 2018), where the Singapore resident ultimate parent entities (UPEs) of the following two types of MNE groups are required to submit a CbCR to the comptroller (or an authorised person):

- › Type A group: an MNE group with consolidated revenues of at least SGD1.125 billion (USD850 million) and has two or more entities that are tax residents in different countries.
- › Type B group: an MNE group with consolidated revenues of at least SGD1.125 billion having a single entity that is tax resident in one jurisdiction, but is also subject to income tax for its business carried out through a permanent establishment in another jurisdiction.

From which year does this CbCR obligation exist?

From 1 January 2017.

Are Taxpayers required to notify of CbCR filing in your country?

With effect from the Financial Year beginning on or after 1 January 2022, Singapore headquartered MNEs having a filing obligation in Singapore will need to notify IRAS on their obligation to file a CbCR within three months from the end of their FY.

If yes, when and how do the tax authorities need to be notified?

IRAS will no longer issue notification letters to the reporting entities.

Singapore

If the reporting entity (ultimate parent or surrogate parent) is in your country, what is the CbCR submission deadline?

12 months from the end of the financial year to which CbCR relates.

Are there any deviating submission deadlines for the secondary mechanism?

No.

Does your country have a requirement that the financial figures of the group need to be aligned with?

No.

Does your country have a requirement that the financial years of the group need to be aligned with?

Yes. Information in the CbCR should reflect on a consistent basis either:

- a) Information for the fiscal year of the relevant group entities ending on the same date as the fiscal year of the reporting entity, or ending within the 12-month period preceding such date (e.g. if CbCR is for reporting entity's FYE 31 December 2017, financial information of group entities having FYE 31 March 2017, 30 September 2017 and 31 December 2017 would be included); OR
- b) Information for relevant group entities for the fiscal year of the reporting entity (e.g. if CbCR is for reporting entity's FY 1 January 2017 - 31 December 2017, financial information of group entities for that same period be included. This can be done by directly identifying financial information of group entities for the period 1 January 2017 – 31 December 2017).

Where is the CbCR to be submitted?

For FY beginning on or after 1 Jan 2022, these Singapore MNE groups are also required to notify IRAS of their obligation to file a CbCR, within three months from the end of that relevant FY.

How is the CbCR to be submitted, specifically, is there any prescribed standard?

In accordance with the CbCR XML Schema prescribed by the OECD Guidelines and the IRAS' supplementary instructions.

What are the possible consequences of not having the CbCR available?

Penalties?

Yes, a penalty of up to SGD10,000 (USD7,600) applies to the filing of false or misleading CbCR information.

Imprisonment?

Yes, the responsible Taxpayer may also be imprisoned for up to two years.

Shifting of the burden of proof?

No.

Other?

No.

To what extent do your local rules differ from the OECD standard regarding the content requirements for the CbCR as shown in the 2017 OECD TP Guidelines?

Consistent with the OECD requirements.

Did your country sign the Multilateral Competent Authority Agreement on the Exchange of CbCR ("CbCR MCAA")?

Yes.

Did your country enter into other information exchange agreements, such as on a bilateral basis?

Yes.

Singapore

Can a Taxpayer in your country fulfil his CbCR requirement by referring to the reporting entity in the same or another country?

Singapore has MCAA agreements or has included information exchange provisions in its double tax agreements with most treaty partners.

5. TP disclosure in tax return or TP specific returns

Is there a threshold for Related Party Transactions?

SGD 15 million.

Does a Taxpayer need to disclose information regarding TP documentation in his tax return?

Yes. From YA 2018 (FY2017) onwards, Taxpayers must report certain details of related party transactions if the value of such transactions in the audited accounts for the financial year exceeds SGD15 million (the value of transactions is the sum of all local and cross-border related party transactions (i) in the income statement and (ii) the year-end balances of loans and non-trade amounts).

This is reported in the Form C (submitted with the Tax Return filing) and includes details of related party transactions, values, and related parties. The Form C does not require the Taxpayer to advise whether they have prepared TP Documentation.

When a Taxpayer files a tax return for which he understands or should understand that the result reported in that tax return is too low due to incorrect TP, what could be the legal consequences?

The form for reporting related party transactions is part of Form C of the tax return. This form provides IRAS with relevant information to assess companies' TP risks and to improve enforcement of the arm's length requirement. Failure to comply results in up to SGD5,000; and/or Imprisonment of up to three years.

Where the error/omission/discrepancy in the tax return was made with intention to evade

taxes, a penalty of up to 400% of the amount of tax undercharged; or a fine of up to SGD50,000; and/or imprisonment up to five years.

IRAS will consider individual circumstances (e.g. negligence, compliance history, cooperation during audits, future commitment to compliance etc.) when deciding penalty only in cases where no evidence of any intention to evade taxes.

What could be the consequences for the tax advisor/accountant/administrator drafting and filing the tax return of a client where that advisor/accountant/administrator understands or should understand that the result reported is too low due to incorrect TP?

IRAS and takes a serious view of offences by errant tax agents. The IRAS has stated that it will take deterrent actions (e.g. penalties/ fines/ imprisonment) against tax agents who deliberately facilitate their clients' under declaration of taxes, assist in falsifying records or provide objectionable tax advice to clients.

The IRAS will treat any voluntary disclosures of errors in tax returns as mitigating factors and impose lower penalties.

Does a Taxpayer need to file TP specific returns?

There is no TP return required to be filed, either separately or along with the Singapore income tax return.

Please state the filing form number and name.

With effect from YA2018, companies with related party transactions exceeding SGD15 million are required to complete the Related Party Transactions Form and submit it together with Form C. From YA2020 onwards, the Form for Reporting RPT is available as part of the Corporate Income Tax return (Form C).

What would be the filing deadline?

The form for reporting related party transactions is part of Form C and it needs to be submitted together with the tax return. The annual filing deadline for Form C is 30 November.

Singapore

What would be the penalties for non-compliance?

Penalties may be imposed for non-filing or incorrect filing of Form C. In cases where the error/omission/ discrepancy in the tax return was made without any intention to evade taxes, penalty up to 200% of the amount of tax undercharged.

6. Benchmarking

Is there any local guidance or requirement with regard to the preparation of a benchmark study?

Yes. IRAS provides the following guidance:

- › no preference for commercial database as long as it provides a reliable source of information;
- › Taxpayers should use comparables with publicly available information (preference for listed comparables);
- › if sufficiently reliable local comparables are not available, the search may expand to regional comparables;
- › comparables should be excluded if they have (a) weighted average loss for the tested period; and/or (b) loss incurred for more than half of the tested period;
- › single-year results of the tested party are expected to be compared with multiple-year comparables results;
- › interquartile range is acceptable;
- › no need to conduct a fresh benchmark search each year - although Taxpayers should update their TPD (including benchmark) when there are material changes impacting the functional analysis or TP analysis; and
- › weighted average is preferred over simple average or pooled results.

Is there any stated preference for local benchmarks?

As much as possible, Taxpayers should use local comparables in their comparability analysis. When Taxpayers are unable to find sufficiently reliable local comparables, they may expand their search to regional comparables (such as pan-Asian).

Are there any materiality thresholds that apply to the requirement to have a benchmark study available?

Yes. Singapore provides thresholds for documentation of related party transactions in the TP Documentation. Benchmarking is required for related party transactions that meet these same thresholds unless the transactions meet the conditions for the safe harbours.

7. Year-end, secondary, and corresponding adjustments

Are year-end/ secondary/ corresponding adjustments permissible?

Yes, year-end, compensating, self-initiated retrospective and corresponding adjustments are permissible in Singapore (TPG Section 13). Downward year-end adjustments are acceptable if conditions are met (contemporaneous TP Documentation, year-end adjustments are symmetrically applied and adjustments are made before year-end). Self-initiated retrospective adjustments are not permissible unless the adjustments are due to an error under Section 93A (1A) of the ITA.

Does the Taxpayer have to comply with any specific features or guidance?

Yes. Where Taxpayers make year-end adjustments to report arm's length results in the tax return, even if they differ from actual financial results. The IRAS will accept year-end adjustments on the following conditions:

- a. Contemporaneous TP documentation/analyses to establish arm's length prices have been maintained;
- b. Year-end adjustments are made symmetrically in the accounts of all affected related parties; and
- c. Year-end adjustments are made before filing of tax returns.

Even if IRAS has accepted year-end adjustments, it is not precluded from conducting TP audits or making subsequent TP adjustments. Where the conditions are not met, upward adjustments will be subjected to tax. However downward adjustments will not be allowed.

Singapore

8. TP Audit and Dispute Resolution Mechanisms

What are currently the main TP areas of scrutiny by the tax authorities in your country?

There is none specified.

Based on your experience, are joint or multilateral audits initiated and carried out?

No.

Does the Taxpayer have the option to apply for bilateral or multilateral APAs?

Yes, Singapore has unilateral, bilateral and multilateral APAs.

Are there any restrictions?

Bilateral/multilateral APAs are available to Singapore resident Taxpayers normally for a period of three to five years and for two prior/rollback years). Taxpayers must:

- › Comply with all requirements pertaining to pre-filing meetings/application processes.
- › Provide access to TP Documentation.
- › Maintain relevant documents and file annual compliance reports to demonstrate compliance with the terms and conditions of the APA agreement together with the income tax returns.
- › Should notify IRAS and relevant foreign competent authority of any breach of the APA conditions as early as possible.
- › Inform IRAS and relevant foreign competent authorities if the matter is adjudicated through legal/ judicial proceedings while the APA process is still ongoing.
- › Provide an impact analysis and proposed course of action to facilitate the competent authorities' evaluation and discussion.

Notwithstanding the APA process, the IRAS is not precluded from conducting an audit on the Taxpayer if there is non-compliance with Singapore tax law.

About WTS Global

We are the leading independent non-audit tax practice worldwide with representation in more than 100 countries. WTS Global deliberately refrains from conducting annual audits in order to avoid any conflicts of interest and to be the long-term trusted advisor for its international clients. Clients of WTS Global include multinational companies, international mid-size companies as well as private clients and family offices.

The member firms of WTS Global are carefully selected through stringent quality reviews. They are strong local players in their home market who are united by the ambition of building a truly global practice that develops the tax leaders of the future and anticipates the new digital tax world.

WTS Global effectively combines senior tax expertise from different cultures and backgrounds and offers world-class skills in advisory, in-house, regulatory and digital, coupled with the ability to think like experienced businesspeople in a constantly changing world.

For more information please visit:
<https://wts.com>

Contacts

Singapore

WTS Taxise (Taxise Asia LLC)

Christine Schwarzl

Associate Principal

christine.schwarzl@taxiseasia.com

WTS Asia Pacific Transfer Pricing leader

WTS Taxise (Taxise Asia LLC)

Christine Schwarzl

Associate Principal

T: +65 6304 7972

E: christine.schwarzl@taxiseasia.com

wts.com